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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 KONONOV VITALY,

12 Plaintiff,

13 v.

14 SACRAMENTO COUNTY SHERIFF
15 DEPARTMENT, et al.,

16 Defendants.
17

No. 2:22-CV-1916-DMC-P

ORDER

18 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
19 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion for the appointment of counsel,
20 ECF No. 13.

21 The United States Supreme Court has ruled that district courts lack authority to
22 require counsel to represent indigent prisoners in § 1983 cases. See Mallard v. United States Dist.
23 Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the Court may request the
24 voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935
25 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).
26 A finding of "exceptional circumstances" requires an evaluation of both the likelihood of success
27 on the merits and the ability of the plaintiff to articulate his claims on his own in light of the
28 complexity of the legal issues involved. See Terrell, 935 F.2d at 1017. Neither factor is

1 dispositive and both must be viewed together before reaching a decision. See id. In Terrell, the
2 Ninth Circuit concluded the district court did not abuse its discretion with respect to appointment
3 of counsel because:

4 . . . Terrell demonstrated sufficient writing ability and legal knowledge to
5 articulate his claim. The facts he alleged and the issues he raised were not
6 of substantial complexity. The compelling evidence against Terrell made it
extremely unlikely that he would succeed on the merits.

7 Id. at 1017.

8 In the present case, the Court does not at this time find the required exceptional
9 circumstances. Plaintiff fails to set forth in his motion any bases for the appointment of counsel,
10 and the Court finds none in this case.

11 Accordingly, IT IS HEREBY ORDERED that Plaintiff's request for the
12 appointment of counsel, ECF No. 13, is denied.

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14 Dated: September 1, 2023



15 DENNIS M. COTA
16 UNITED STATES MAGISTRATE JUDGE
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